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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 01-186
	)	
Amendment of Section 73.202(b)	)	RM-9976
Table of Allotments	)	
FM Broadcast Stations	)	
(Honor, Bear Lake, Ludington	)	
and Walhalla, Michigan	)	

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**RESPONSE OF FORT BEND BROADCASTING COMPANY  
TO ORDER TO SHOW CAUSE**

On August 10, 2001, the Commission released its Notice of Proposed Rulemaking ("NPR") in this proceeding and in that document proposed inter alia the deletion of channel 261A from Bear Lake, Michigan and its replacement with channel 291A at Bear Lake. Fort Bend Broadcasting Company ("Fort Bend") is the licensee of Radio Station WCUZ(FM) (formerly "WSRQ(FM)") which is currently operating on channel 261A in Bear Lake and the instant Response is being filed by Fort Bend, through its Counsel, in response to the Order to Show Cause.

**I. Preliminary Statement Confirming Full Operation of Radio Station WCUZ(FM) in Bear Lake, Michigan.**

Initially we believe it important to note here for the record that the "facts" indicated by the Commission at footnote 4 of the NPR as to the alleged silence of the station "during the past five years" are simply not correct. While unable to speak for prior operations "during the past five years" Fort Bend can verify that the prior licensee (D & B Broadcasting) verified by

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affidavit to the FCC that it returned the station to the air on March 10, 1999 and that it then remained in continuous operation until October 28, 1999, when it went silent, returning to the air on September 9, 2000, and remaining on the air until November 4, 2000, when its sale was approved and closed. As for Fort Bend, the current licensee, it returned the station to the air after completing repairs on March 27, 2001, and it has been in continuous operation since then through the present time. Whatever the alleged situation "five years ago" WCUZ is presently, and for a substantial period of time has been, a stable and reliable broadcast operation under its current licensee and will remain so.

**II. The proposal to Remove Channel 261A from Bear Lake is Fully Consistent With a Prior Rulemaking Proposal (RM-9945) Filed by Fort Bend in Docket 00-69.**

There is a very odd circumstance that exists relative to the Rulemaking petition of Northern Radio of Michigan ("Northern") as set forth in Docket 01-186. It must first be noted that the prior licensee of WCUZ in Bear Lake (D&B Broadcasting) executed a Consent Agreement with Northern in which it agreed to remove channel 261A from Bear Lake and to its replacement with Channel 291A. When Fort Bend bought the station from D&B in June of 2000, it agreed to honor that commitment from that point on and has done so. On June 16, 2000, Fort Bend (along with D&B) filed a counterproposal in Docket 00-69 proposing the removal and upgrade of the Bear Lake channel from 261A in Bear Lake to a first service 260C1 in Bellaire, Michigan. At the same time, Fort Bend proposed replacing the existing allocation in Bear Lake with

channel 291A, the identical change at Bear Lake as proposed by Northern, and as agreed to by D&B in its Consent Agreement with Northern.

That being so, it was of some surprise to Fort Bend that in Reply Comments filed by Northern in Docket 00-69 on September 8, 2000, Northern vigorously opposed the Fort Bend proposal, not only contrary to logic, but also contrary to, and in breach of, the letter and spirit of the Consent Agreement it had executed with D&B that had specifically proposed that very change. Although the Fort Bend proposal in Docket 00-69 was totally consistent with Northern's stated request in Docket 01-186 for the channel change in Bear Lake, it appears that Northern's real concern and objection was to the simultaneous proposal of Fort Bend to provide a first service to Bellaire, Michigan, a community located some 46 miles distant from Northern's station in Honor. It seems that gaining its own requested upgrade for WIAR in Honor, Michigan, is not quite enough for Northern, that it also wants to do all that it can to prevent the addition of any other new service to any other Michigan community, no matter how far away that might be. That may be in Northern's own selfish interest but it certainly is not in the public's interest and it should be seen for what it is and should not be countenanced.

At paragraph 3 of the NPR in this Docket, the Commission noted the obligation of Northern to make a commitment to full reimbursement to the licensee of WSRQ (now WCUZ) for any required change in channel and site. That is obviously consistent with the

Commission's long-held policy requiring such a commitment to full reimbursement (Circleville, Ohio, 8 FCC 2d 159 (1967)), and would be essential to consideration of Northern's proposal, and a clear statement of such an unqualified commitment would be of obvious necessity here where Northern has already acted in breach of its prior Consent Agreement with D&B, the prior licensee.

**III. Proceeding First With Fort Bend's Related Proposal in Docket 00-69 Would Simplify Final Consideration of Northern's Proposal in Docket 01-186 and Conserve Commission Resources.**

But actually, there is another way to proceed here that could grant Northern what it has stated is its goal, i.e. the upgrade of WIAR in Honor, and also spare Northern the need to make any reimbursement at all to the licensee of WCUZ in Bear Lake. The Bear Lake proceeding (Docket 00-69) preceded the Honor proceeding and a Show Cause Order relative to a required channel change was issued in the Bear Lake proceeding on May 11, 2001. All pleadings are in and that Docket is ready for action by the Commission. With grant of Fort Bend's request in Docket 00-69, channel 261A would be removed from Bear Lake, consistent with the request of Northern in this Docket, and replaced by channel 291A, also consistent with Northern's stated request in this Docket.

The essential difference is that, in that case, channel 291A would be considered as a new allocation in Bear Lake and, although Fort Bend has already stated its own commitment to apply for use of that channel, as a new channel allocation, it would be open to application by any interested party and in that

circumstance there would be no requirement of reimbursement of expenses by Northern to Fort Bend or any other such applicant.

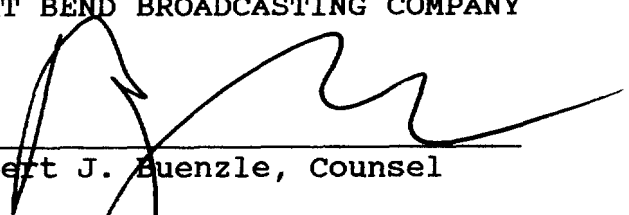
This would appear to be the the best and most efficient way to proceed, simplifying consideration of the two Dockets, coordinating the two requests, conserving Commission resources, and providing for adoption of both requests, resulting in new upgraded and additional service at several Michigan communities, clearly in the public interest, and thereby also dispensing with the need for reimbursement of expenses from Northern to Fort Bend for the change in the Bear Lake allocation.

#### IV. Conclusion

Fort Bend therefore respectfully requests that the Commission proceed first with its consideration of Fort Bend's request in Docket 00-69, that Fort Bend's proposal in that Docket be adopted, and that the Commission then proceed with final consideration of Northern's proposal in Docket 01-86.

Respectfully Submitted,

FORT BEND BROADCASTING COMPANY

by   
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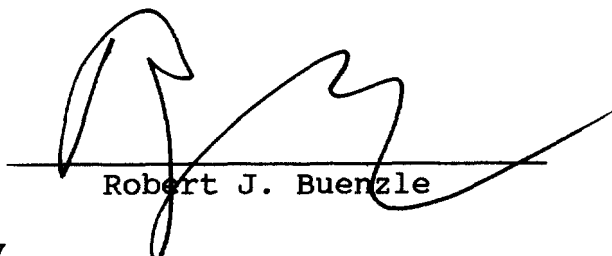
CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing "Response of Fort Bend Broadcasting to Order to Show Cause" have been served by United States mail, postage prepaid this 1st day of October, 2001, upon the following:

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